

## **WC 16.04.085 Adult Entertainment Establishments**

A. Definitions. For the purposes of this section, the following terms, phrases, and words shall have the meanings given herein.

- Adult booth – Any area of an adult entertainment establishment set off from the remainder of such establishment by one (1) or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
- Adult cabaret – Any commercial establishment that as a substantial or significant portion of its business features or provides any of the following:
  - (1) Persons who appear nude or semi-nude.
  - (2) Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
  - (3) Films, motion pictures, video or audio cassettes or discs, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
- Adult entertainment establishment - An adult cabaret, adult store, or adult theater, as defined in this subsection.
- Adult material – Any of the following, whether new or used:
  - (1) Books, magazines, periodicals, or other printed matter, or digitally stored materials.
  - (2) Films, motion pictures, video or audio cassettes or discs, slides, computer displays, or other visual representations or recordings of any kind, that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
  - (3) Instruments, novelties, devices, or paraphernalia that are designed for use in connection with specified sexual activities, or that depict or describe specified anatomical areas.

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- Adult store – Any commercial establishment (a) that contains one (1) or more adult booths; (b) that as a substantial or significant portion of its business offers for sale, rental, or viewing any adult materials; or (c) that has a segment or section devoted to the sale or display of adult materials.
- Adult theater – Any commercial establishment that as a substantial or significant portion of its business features or provides films, motion pictures, video or audio cassettes or discs, slides, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
- Commercial establishment – Any place where admission, services, performances, or products are provided for or upon payment of any form of consideration.
- Nude or state of nudity – A state of dress or undress that exposes to view (i) less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.
- Protected uses –
  - (1) A church, synagogue, mosque, or other place of worship.
  - (2) A public or private nursery school or any other public or private school serving any one (1) or more of grades K through 12.
  - (3) A child care facility, licensed by the Indiana Family and Social Services Administration.
  - (4) A public or private park, playground or playing field.
  - (5) A public or private cemetery.
  - (6) A public housing facility.
- Residential property – Any lot or other tract of land zoned in any of the following districts or zones: AG SF 1, AG SF 1 I, SF 1, **SF – A**, SF 2, SF 3, SF 4, SF 5, MF 1 and MF 2. Also, any lot or other tract of land zoned in any of the following districts or zones and used for residential purposes: GO, GO-PD, LB, LB-H, LB-PD, GB, GB-PD, SB-PD, EI, EI-PD and OI-PD or any PUD.

- Semi-nude – A state of dress or undress in which clothing covers no more than the human genitals, anus, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices or by other minor accessory apparel such as hats, gloves, and socks.
- Specified anatomical areas – Any of the following:
  - (1) Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed.
  - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.
- Specified sexual activities – Any of the following:
  - (1) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
  - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
  - (3) Masturbation, actual or simulated.
  - (4) Human genitals in a state of sexual stimulation, arousal, or tumescence.
  - (5) Excretory functions as part of or in connection with any of the activities set forth in paragraphs (1), (2), (3), or (4) of this definition.

B. Adult entertainment establishment location standards.

1. Requirements – Except for existing legal nonconforming uses governed pursuant to subsection C of this section, adult entertainment establishments located, established, maintained, or operated on any lot in the Town or Township shall also comply, in addition to complying with all other applicable regulations set forth in these regulations, with the regulations set forth in paragraphs (2) through (8) of this subsection. In the event of a conflict between the provisions of any other such regulations and the regulations set forth in paragraphs (2) through (8) of this subsection, the regulations set forth in paragraphs (2) through (8) of this subsection shall control to the extent of any conflict.

2. Permitted districts – Adult entertainment establishments shall only be permitted in the OI zoning district.
3. Minimum distance from other adult entertainment establishments – No adult entertainment establishment shall be located, established, maintained, or operated on any lot that has a property line within one thousand (1,000) feet of the property line of any other lot on which any other adult entertainment establishment is located, established, maintained, or operated.
4. Minimum distance from protected uses – No adult entertainment establishment shall be located, established, maintained, or operated on any lot that has a property line within five hundred (500) feet of the property line of any other lot on which a protected use is located, established, maintained, or operated.
5. Minimum distance from residential property – No adult entertainment establishment shall be located, established, maintained, or operated on any lot that has a property line within five hundred (500) feet of the property line of any residential district or residence.
6. Minimum distance from the rights-of-way of Federal and State highways – No adult entertainment establishment shall be located, established, maintained, or operated on any lot that has a property line within one thousand (1,000) feet of a right-of-way line of any Federal or State highway.
7. Measurement – For the purposes of this section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the adult entertainment establishment is located to the nearest point on a property line of (i) any residential property or (ii) any lot on which a protected use or other adult entertainment establishment, as the case may be, is located, established, maintained, or operated, or (iii) the right-of-way line of any Federal or State highway.
8. Limited exception for subsequent protected uses, alcoholic business, and residential property – An adult entertainment establishment lawfully operating under these regulations and under the Town's adult use licensing ordinance shall not be deemed to be in violation of the location restrictions set forth herein solely because (i) a protected use subsequently locates within the minimum required distance of the adult entertainment establishment, (ii) a business that sells or dispenses alcoholic beverage subsequently locates within the same building as the adult entertainment establishment, or (iii) property within the minimum required distance of an adult entertainment establishment subsequently becomes residential property. This paragraph (8) shall not apply to an adult entertainment establishment at a time when an application for an "adult entertainment license" under the Town's adult use licensing ordinance for that establishment is submitted

after the license has previously expired, has been revoked, or is at that time under suspension.

- C. Termination of nonconforming adult entertainment establishments upon amortization
  - Any adult entertainment establishment that is deemed under the provisions of these regulations to be a nonconforming use, and that has not been terminated pursuant to any other provision of this section, shall be converted to a conforming use or shall be terminated not later than three hundred sixty-five (365) days after the effective date of this section.